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OFFICE OF PETITIONS

In re Application of
Michael J. Borrelli
Application No. 10/764,316
Filed: January 23, 2004
Attorney Docket No. 10546-109

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of June 13, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). A Notice of Abandonment was mailed on January 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of \$405, (2) the petition fee of \$770, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

The petition mailed June 27, 2008 dismissed the petition filed on January 18, 2008 for failure to submit a proper reply. The renewed petition filed August 25, 2008 included a proper reply.

An additional petition fee of \$770.00 was paid with the renewed petition. No fee was necessary and will be refunded to petitioner's deposit account.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being

mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1635 for processing of the RCE and any action that is required by the Examiner in the normal course of business.



Carl Friedman
Petitions Examiner
Office of Petitions

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